

NOTICES OF EXEMPT RULEMAKING

The Administrative Procedure Act requires the *Register* publication of the rules adopted by the state's agencies under an exemption from all or part of the Administrative Procedure Act. Some of these rules are exempted by A.R.S. §§ 41-1005 or 41-1057; other rules are exempted by other statutes; rules of the Corporation Commission are exempt from Attorney General review pursuant to a court decision as determined by the Corporation Commission.

NOTICE OF EXEMPT RULEMAKING

TITLE 2. ADMINISTRATION

CHAPTER 16. OFFICE OF THE OMBUDSMAN

CITIZENS' AIDE

PREAMBLE

1. **Sections Affected**

Article 1

R2-16-101

Article 2

R2-16-201

R2-16-202

R2-16-203

R2-16-204

R2-16-205

R2-16-206

R2-16-207

R2-16-208

R2-16-209

R2-16-210

R2-16-211

R2-16-212

Article 3

R2-16-301

R2-16-302

R2-16-303

R2-16-304

R2-16-305

R2-16-306

Article 4

R2-16-401

R2-16-402

R2-16-403

R2-16-404

R2-16-405

Article 5

R2-16-501

R2-16-502

R2-16-503

Rulemaking Action

New Article

New Section

New Article

New Section

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2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 41-1376

Implementing statute: A.R.S. Title 41, Chapter 8, Article 5

3. **The effective date of the rules:**

October 30, 1996

4. **A list of all previous notices appearing in the Register addressing the final rule:**

None published.

5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Patrick M. Shannahan
Address: Office of the Ombudsman - Citizens' Aide
1101 West Washington
Phoenix, Arizona
Telephone: (602) 255-1932
Fax: (602) 254-3593

6. An explanation of the rule, including the agency's reasons for initiating the rule, including the statutory citation to the exemption from the regular rulemaking procedures:

These rules ensure that confidential information gathered by the ombudsman - citizens' aide will not be disclosed to unauthorized persons. They also establish procedures for receiving and processing complaints, conducting investigations, incorporating agency responses into recommendations and reporting findings. Laws 1995, Ch. 281, § 5 states "The office of the ombudsman-citizens aide is exempt from the requirements of A.R.S. Title 41, Chapter 6 until July 1, 1997."

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

These rules will not diminish a previous grant of authority of a political subdivision of this state.

8. The summary of the economic, small business, and consumer impact:

None.

9. A description of the changes between the proposed rules, including supplemental notes, and final rules (if applicable):

Not applicable.

10. A summary of the principal comments and the agency response to them:

Not applicable.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable.

12. Incorporations by reference and their location in the rules:

None.

13. Was this rule previously adopted as an emergency rule?

No.

14. Full text of the rules follows:

TITLE 2. ADMINISTRATION

**CHAPTER 16. OFFICE OF THE OMBUDSMAN
CITIZENS' AIDE**

ARTICLE 1. GENERAL PROVISIONS

R2-16-101. Definitions

ARTICLE 2. HANDLING CONFIDENTIAL MATERIAL

- R2-16-201. Protecting the Identity of a Complainant or Witness
R2-16-202. Status Reports
R2-16-203. Requirement to Close Case Before Violating Confidentiality
R2-16-204. Agency Obligation to Provide Records
R2-16-205. Protecting Confidential Agency Information
R2-16-206. Responsibility to Notify
R2-16-207. Returning a Confidential Document to an Agency
R2-16-208. Returning a Confidential Document to a Complainant
R2-16-209. Prohibition Against Discussing Open Complaint Investigations
R2-16-210. Summaries of Closed Cases

**ARTICLE 3. RECEIVING AND PROCESSING
COMPLAINTS**

- R2-16-301. Exhausting Reasonable Alternatives Within the Agency
R2-16-302. Inmate Complaints
R2-16-303. Resolution Prior to Investigation
R2-16-304. Anonymous Complaints
R2-16-305. Filing Complaints
R2-16-306. Complaints Alleging Employee Misconduct

ARTICLE 4. CONDUCTING INVESTIGATIONS

- R2-16-401. Notice
R2-16-402. Conferences
R2-16-403. Closing Cases
R2-16-404. Findings
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ARTICLE 5. ACTIONS AFTER AN INVESTIGATION

- R2-16-501. Preliminary Report
R2-16-502. Final Report

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R2-16-503. Advising the Complainant

ARTICLE 1. GENERAL PROVISIONS

R2-16-101. Definitions:

1. "Complainant" means a person who files a complaint with the Office.
2. "Confidential information" means oral or written information, including a record, for which restricted access is required by Federal or Arizona law. Confidential information also includes identifying personal information a complainant or witness has requested not be disclosed.
3. "Document" means a paper or electronic record, memorandum, form, book, letter, file, drawing, map, or plat.
4. "Hearing" means an investigative tool used to receive sworn testimony or to take a deposition.
5. "Office" means the Office of the Ombudsman-Citizens' Aide.
6. "Ombudsman-citizens' aide" means the person appointed to the position of ombudsman-citizens' aide under the provisions of A.R.S. § 41-1373.
7. "Photograph" means a paper or electronic photographic representation, photographic file, motion picture, video tape, microfilm, or microphotograph.

ARTICLE 2. HANDLING CONFIDENTIAL MATERIAL

R2-16-201. Protecting the Identity of a Complainant or Witness

When a complainant or witness requests that their identity be protected, the Office shall not release information that reveals the person's identity to an agency, the public, or anyone else, without the person's permission.

R2-16-202. Status Reports

The Office may provide a status report to a complainant about the progress of an investigation, that the complainant initiated, unless it would be detrimental to the resolution of a complaint. A status report shall not release confidential information, obtained from any source, without prior approval from the source.

R2-16-203. Requirement to Close Case Before Violating Confidentiality

The Office shall close an investigation if it can not proceed further without revealing the identity of a complainant who has requested confidentiality. Before closing the investigation for this reason, the Office shall ask the complainant for permission to release identifying information.

R2-16-204. Agency Obligation to Provide Records

An agency shall provide to the Office, upon written request, pursuant to an investigation conducted under the provisions of A.R.S. § 41-1378, a record, or copy of a record, including a confidential record, unless exempted by A.R.S. § 41-1378. If an agency withholds a confidential record that has been requested by the Office, the agency shall cite the legal authority for refusing to provide the confidential record.

R2-16-205. Protecting Confidential Agency Information

The Office shall give confidential information received from an agency the same degree of protection by the Office as provided by the agency itself. The Office shall not release confidential agency information to the complainant, or any other person, without the agency's prior authorization, unless ordered by a court or other lawful authority.

R2-16-206. Responsibility to Notify

An agency providing confidential information to the Office shall

inform the Office of any legal conditions or restrictions that apply to securing or releasing that information.

R2-16-207. Returning a Confidential Document to an Agency
The Office shall return a confidential record, received from an agency, only to the agency that provided it, unless the agency provides written authorization for release of the document to a 3rd party.

R2-16-208. Returning a Confidential Document to a Complainant

The Office shall return a confidential document received from a complainant only to the complainant, unless the complainant provides written authorization for release of the document to a 3rd party or the Office determines that the document was not lawfully in the possession of the complainant.

R2-16-209. Prohibition Against Discussing Open Complaint Investigations

The Office shall not discuss open complaint investigations of the Office with the general public or the media.

R2-16-210. Summaries of Closed Cases

The Office shall make available to the public a summary of a closed case if the Office determines that the summary will assist in the management of a state government program, to respond to an inquiry about the performance of a state program, or to inform the public about the activity and performance of the Office. The summary shall not disclose identifying information about a complainant or witness whose identity is protected, confidential investigator notes, or confidential information received from an agency.

**ARTICLE 3. RECEIVING AND PROCESSING
COMPLAINTS**

R2-16-301. Exhausting Reasonable Alternatives Within the Agency

- A. The Office shall make inquiry of the complainant and the agency to determine that the complainant has exhausted all reasonable alternatives to resolve a complaint within the agency before initiating an investigation.
- B. If the complainant has not made a reasonable effort to resolve the complaint within the agency, the Office shall refer the complainant to the appropriate person or office within the agency and provide the complainant information about available steps to resolve the complaint.
- C. The office shall defer action in a matter that is being litigated in the courts or is the subject of a current formal administrative procedure unless the ombudsman-citizens' aide determines that immediate investigation is necessary to protect the public health, safety, or welfare.

R2-16-302. Inmate Complaints

In accordance with A.R.S. § 41-1377, the Office shall refuse complaints filed by a person in the custody of the Department of Corrections. This refusal shall include complaints filed by another person on behalf of an inmate, or concerning a rule or substantive policy statement concerning inmates.

R2-16-303. Resolution Without Investigation

If a complaint can be resolved quickly by mutual agreement, the Office shall attempt to resolve the complaint informally, without resorting to an investigation.

R2-16-304. Anonymous Complaints

The Office shall decline to investigate anonymous complaints unless facts of the matter are compelling and can be reasonably independently verified.

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R2-16-305. Filing Complaints

- A. A complaint against a state agency shall be filed with the Office in writing, in person, by telephone, by electronic facsimile, or by electronic mail.
- B. A complaint that alleges breach of duty, misconduct, or discourtesy by an officer or employee of an agency shall be filed with the Office in writing and signed by the complainant.

R2-16-306. Complaints Alleging Employee Misconduct

- A. Before investigating an allegation of misconduct by a state employee, the Office shall provide written notice of the pending investigation to the employee and the chief executive officer of the employee's agency.
- B. If an investigation of an allegation of misconduct by a state employee results in a preliminary report that contains an adverse opinion or recommendation, the Office shall consult with the employee about the report before submitting the report to the agency and shall include the employee's written response, if any, with the preliminary report that is forwarded to the agency.
1. This preliminary consultation shall be confidential and shall not be publicly disclosed.
 2. The employee shall have 15 working days to respond to the preliminary report, unless the ombudsman - citizens' aide believes a delay will cause significant harm or damage.
 3. An employee may request an extension to the time in which to respond to a preliminary report for a compelling reason. The Office shall grant the request unless the ombudsman-citizens' aide believes an extension would cause significant harm or damage.

ARTICLE 4. CONDUCTING INVESTIGATIONS

R2-16-401. Notice

When exercising rights of access under the provisions of A.R.S. § 41-1378, whenever possible, and not deemed to compromise the effectiveness of an Office investigation, at least 10 days prior notice shall be given by the Office to the agency concerning information needs, the intent to conduct interviews, or requirements to view necessary records. An agency may request an extension to this period for a compelling reason. The ombudsman shall grant a request for extension unless the ombudsman-citizens' aide believes a delay would cause significant harm or damage.

R2-16-402. Conferences

To facilitate the resolution of a complaint, during an investigation, the Office may arrange a private conference between the Office, complainant, and agency to see if a mutually acceptable solution to a complaint can be achieved. A conference shall only be held upon prior approval of the parties.

R2-16-403. Closing Cases

The Office may close a case for the following reasons:

1. *Discontinued*. The ombudsman-citizens' aide determines that an investigation should be terminated before the investigation is completed because:
 - a. Disclosure of the complainant's identity is necessary to enable full investigation and the complainant refuses to allow the disclosure;
 - b. Information or a record is requested from the complainant and the complainant fails to produce the information or record within the time specified by the Office;
 - c. The complainant withdraws the complaint;
 - d. The complaint relates to a matter that has become the subject of an administrative or judicial proceeding;

- e. The Office forwards a complaint to an appropriate prosecutor because it involves possible criminal activity; or
 - f. The ombudsman-citizens' aide determines there is other good cause not to proceed with an investigation.
2. *Closed - Not Substantiated*. The ombudsman-citizens' aide determines that the agency performed appropriately or is not able to substantiate that the agency performed inappropriately.
 3. *Closed - Complaint Resolved (before preliminary report)*. The ombudsman-citizens' aide determines that the complaint has merit, either wholly or in part, and, before a preliminary report is issued, the agency agrees to provide a remedy that is acceptable to the agency and ombudsman.
 4. *Closed - Complaint Resolved (after preliminary report)*. The ombudsman - citizens' aide determines that the complaint has merit, wholly or in part, and, after a preliminary report is issued, the agency agrees to provide remedy that is acceptable to the agency and ombudsman.
 5. *Closed - Complaint Unresolved*. The ombudsman - citizens' aide determines that the complaint has merit, wholly or in part, and the agency does not accept the recommendations of the ombudsman - citizens' aide.
 6. *Other*. A case is closed for a reason that does not meet 1 of the other criteria for closure.

R2-16-404. Findings

The Office shall refer to 1 of the following findings in an investigative report:

1. *Justified* - The investigation establishes that the administrative act did occur and the complainant's criticism of the administrative act is valid.
2. *Partially justified* -
 - a. In a complaint having multiple allegations, the investigation establishes that at least 1 allegation is justified and at least 1 allegation is not justified or indeterminate; or
 - b. The investigation establishes there is shared fault between the complainant and agency.
3. *Not justified* - The investigation establishes that:
 - a. The administrative act did not occur; or
 - b. The administrative act occurred, but the complainant's criticism of the administrative act is not valid.
4. *Indeterminate* - The investigation does not provide sufficient evidence for the Office to determine conclusively:
 - a. Whether the administrative act occurred; or
 - b. If the administrative act occurred, whether the complainant's criticism of the administrative act is valid.

R2-16-405. Recommendations

- A. In accordance with A.R.S. §§ 41-1376 and 41-1379, the Office shall recommend a resolution to a complaint when a completed investigation results in a finding of "justified" or "partially justified."
- B. The Office shall not recommend a specific employee disciplinary action to be imposed.

**ARTICLE 5. INCORPORATING AGENCY RESPONSES
INTO REPORTS AND RECOMMENDATIONS**

R2-16-501. Preliminary Report

- A. Before issuing an opinion or recommendation, the Office shall consult with the agency and send a confidential preliminary report to the agency.

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R19-1-239	Amend
R19-1-241	Amend
R19-1-242	Amend
R19-1-243	Amend
R19-1-244	Amend
R19-1-245	Amend
R19-1-246	Amend
R19-1-247	New Section
R19-1-248	New Section
R19-1-249	New Section
R19-1-250	New Section
R19-1-251	New Section
R19-1-252	New Section
R19-1-253	New Section
R19-1-254	New Section
R19-1-255	New Section
R19-1-256	New Section
Article 3	New Article
R19-1-301	New Section
R19-1-302	New Section
R19-1-303	New Section
R19-1-304	New Section

2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statutes: Laws 1989, Ch. 234, § 22 for the following Sections: R19-1-201, R19-1-204, R19-1-208, R19-1-209, R19-1-211, R19-1-213, R19-1-215, R19-1-216, R19-1-217 through R19-1-228, R19-1-242 through R19-1-256, and R19-1-301 through R19-1-304.

Laws 1991, Ch. 136, §§ 2 and 3 for R19-1-214.

A.R.S. §§ 4-112(B)(1), 4-203.01(H), 4-203.02(E), 4-205.06(C), and 4-261(I) for all of the rules.

Implementing statutes: A.R.S. 4-101, et. seq.

3. The effective date of the rules:

September 14, 1990, for the following rules: R19-1-201, R19-1-204, R19-1-208, R19-1-211, R19-1-213, R19-1-215 through R19-1-225, R19-1-227, R19-1-228, R19-1-242 through R19-1-256, and R19-1-301 through R19-1-304.

April 1, 1992, for R19-1-214.

4. A list of all previous notices appearing in the Register addressing the final rule:

None published.

5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Myron Musfeldt
Address: Department of Liquor Licenses and Control
800 West Washington, 5th Floor
Phoenix, Arizona 85007
Telephone: (602) 542-9041
Fax: (602) 542-6799

6. An explanation of the rule, including the agency's reasons for initiating the rule, including the statutory citation to the exemption from the regular rulemaking procedures:

This rule package reflects rules that were previously adopted pursuant to statutory exemptions from the regular rulemaking process, but were not filed with the Secretary of State's Office. The purpose of this filing is for all of the Department of Liquor Licenses and Control's rules to be in one place, and filed with the Secretary of State's Office. The statutory authority for this rule package to be filed with the Secretary of State incorporating all rules previously adopted pursuant to exemptions is Laws 1996, Chapter 307, § 19.

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable.

8. The summary of the economic, small business, and consumer impact:

Not applicable.

9. A description of the changes between the proposed rules, including supplemental notes, and final rules (if applicable):

Not applicable.

10. A summary of the principal comments and the agency response to them:
No comments were received.
11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:
None.
12. Incorporations by reference and their location in the rules:
None.
13. Was this rule previously adopted as an emergency rule?
No.
14. Full text of the rules follows:

TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING

CHAPTER 1. DEPARTMENT OF LIQUOR LICENSES AND CONTROL

ARTICLE 1. STATE LIQUOR BOARD REGULATIONS

ARTICLE 2. SUPERINTENDENT'S REGULATIONS

Section

- R19-1-201. Distilling Apparatus Requirements
- R19-1-204. Sign Limitations
- R19-1-207. Alcohol
- R19-1-208. Storage on Unlicensed Premises
- R19-1-209. Broken Package Prohibited -- Off-sale Premises
- R19-1-211. Seizure, Liquors
- R19-1-213. Violence, Report of
- R19-1-214. ~~Statements of age and percentage for whiskey~~ Fetal Alcohol Sign Display
- R19-1-215. Credit Law Exception
- R19-1-216. Suspension, Adherence to Rules of
- R19-1-217. Inducements, Prohibited
- R19-1-218. Change of Address
- R19-1-219. Name Change Requirements
- R19-1-220. Interstate Shipping, Importation, Labeling, Solicitation, Advertising
- R19-1-221. Bottles, Reuse or Refilling Prohibited
- R19-1-222. Records, Keeping of
- R19-1-223. ~~Airline railroad, application, posting~~ Conveyance License, Application Posting
- R19-1-224. ~~F.A.A. Adoption~~
- R19-1-225. Closing, Notice of
- R19-1-227. ~~Identification Requirements~~
- R19-1-228. Advertising, Misleading
- R19-1-231. Hotel/Motel/Restaurant Requirements
- R19-1-232. ~~Interstate Standards~~
- R19-1-233. Patio -- Outdoor Use Permission
- R19-1-234. ~~Possession by Minors on Licensed Premises~~
- R19-1-235. Clothing Requirements, Employees
- R19-1-236. Sex Acts Prohibited, Real, or Simulated
- R19-1-237. Obscene Films, Pictures Prohibited
- R19-1-238. ~~Prostitution Solicitation Prohibited~~
- R19-1-239. Filing of Legal or Equitable Interest
- R19-1-241. Tapping Equipment, Furnishing, Selling, and Servicing
- R19-1-242. Retail Agents
- R19-1-243. Surrender of Licenses/Interim Retail Permits
- R19-1-244. Special Event License
- R19-1-245. Commercial Coercion and Bribery
- R19-1-246. ~~Security for Transaction Privilege Tax and Affiliated Excise Tax Payments~~ Foodstuffs
- R19-1-247. ~~Non-alcoholic Malt Beverages, Wines, and Cocktail Mixers~~

- R19-1-248. Display of License
- R19-1-249. Nothing of Value to Retailer
- R19-1-250. Exceptions to General Rule
- R19-1-251. Employee Records
- R19-1-252. Interim Permit/Tax Violations
- R19-1-253. License Restriction Audits
- R19-1-254. Microbrewery/Retail
- R19-1-255. Age Restrictions
- R19-1-256. Change in Proprietary Interest

ARTICLE 3 UNLICENSED PREMISES DEFINITIONS AND HEARING PROCEDURES

- R19-1-301. Definitions
- R19-1-302. Exemptions to A.R.S. § 4-244.05
- R19-1-303. Hearing Procedures
- R19-1-304. Public Facilities Exemption

ARTICLE 1. STATE LIQUOR BOARD REGULATIONS

ARTICLE 2. SUPERINTENDENT'S REGULATIONS

R19-1-201. Distilling Apparatus Requirements

All distilling apparatus shall be registered with the Superintendent. Such registration shall contain:

1. A description covering type, capacity, and other physical details;
2. Names and addresses of owner or owners;
3. A correct and complete address of the premises where such still or distilling apparatus is in operation or is stored;
4. ~~Purposes for which apparatus will be used;~~
5. ~~Photographs of the assembled apparatus; and~~
6. ~~Copy of Bureau of Alcohol, Tobacco, and Firearms Still Registration Permit.~~

R19-1-204. Sign Limitations

- A. No person, firm, or corporation engaged in business as a manufacturer, distiller, brewer, ~~wine~~ vintner or wholesaler or any officer, director, agent, or employee of such person shall directly or indirectly furnish, give, lend, rent, or sell to the retailer any sign for interior use exceeding 630 ~~864~~ square inches in area, and said sign, ~~shall not cost more than \$125.00 including the expense of the sign and the erection and/or installation thereof, and for exterior use shall not exceed 864 square inches and shall not cost more than \$250.00 including the expense of the sign and the erection and/or installation thereof,~~ provided that no such signs shall be offered or furnished by any manufacturer, distiller, brewer, ~~wine~~ vintner or

wholesaler or by any officer, director, agent, or employee thereof, or by any other person as an inducement to the retailer to purchase or use the products of such manufacturer, distiller, brewer, ~~wine~~ vintner or wholesaler to the exclusion in whole or in part of the product of any competitor.

- B. No outside sign or signs which in whole or in part advertise any alcoholic beverage may be erected or maintained by a licensed retailer at his own expense or erected or maintained on the premises of a licensed retailer by a manufacturer, distiller, brewer, ~~wine~~ vintner or wholesaler which exceeds in area 864 square inches which may be visible from any given point.
- C. No signs or other advertising matter used in connection with the licensed premises of any retailer of alcoholic beverages shall be of any obnoxious, gaudy, blatant, or offensive or obscene nature: as determined by applying contemporary state standards.
- D. The department will exercise discretion in regards to temporary signs complying with the above cited requirements. A sign is temporary if it is not displayed outside the retail establishment for longer than 7 days or inside for longer than 45 days. The temporary sign may be any size or made of any material. It may not be utilitarian except as to its advertising content.
- E. Special events fully licensed are not subject to this limitation. Furnishing advertising copy (ad slicks) of nominal value is permissible. A poster may advertise an event in advance of the event as long as it meets these same requirements and is visible from inside establishments only.

R19-1-207. Alcohol

No retailer or other person may buy, sell, or deal in alcohol unless such person shall be a duly licensed pharmacist selling such alcohol upon prescription only or a duly licensed Arizona wholesale spirituous liquor dealer, a retailer or other person licensed in Arizona to sell or deal in distilled spirits.

R19-1-208. Storage on Unlicensed Premises

No licensee shall have consigned to him, receive or accept the delivery of or keep in storage any spirituous liquors upon any premises other than those described in his license without 1st having obtained written authorization from the Superintendent authorization in writing.

R19-1-209. Broken Package Prohibited – Off-sale Premises

No off-sale retailer shall have upon his licensed premises any broken package of spirituous liquor, as defined by A.R.S. § 4-101(3) ~~4-101~~. This regulation rule applies to the actual container and not to the shipping case.

R19-1-211. Seizure, Liquors

Any spirituous liquors that shall be imported, transported, stored, sold or offered for sale, kept with the intent to sell or traffic in or be used in any manner whatsoever contrary to the law or to the rules and regulations of the Superintendent ~~or the board~~ shall be subject to seizure by any employee of the Department of Liquor Licenses and Control ~~or by any peace officer.~~

R19-1-213. Violence, Report of

A licensee upon whose licensed premises an act of violence occurs shall make a detailed, written report within 24 hours of such act of violence to the Department of Liquor Licenses and Control. An act of violence shall be construed to include any disturbance in which bodily injuries, fatal or not, are sustained by any person including, but not limited to, riots, brawls or public commotions of sufficient intensity as to require the intervention of peace officers, the licensee, or other persons to restore normal order of such act of violence to be hand delivered or deposited in the U.S. Mail within 7

days of the act of violence to the Department. A licensee shall also report in the same manner, acts of violence, involving patrons entering or leaving the licensed premises which occur immediately adjacent to the licensed premises when the licensee knew or reasonably should have known of such acts of violence.

R19-1-214. ~~Statements of age and percentage for whiskey~~ Fetal Alcohol Sign Display

~~Statements of age and percentage for whiskey shall be those set forth in 27 CFR 5.40(a)(1) and (2), (1983), a copy of which is available in the office of the Secretary of state and in the office of the Department of Liquor Licenses and Control.~~

A. Definitions.

1. "Liquor" means spirituous liquor as defined in A.R.S. § 4-101.27.
2. "Room" means the licensed premises as defined in A.R.S. § 4-205.01(D).
3. "Sign" means the warning sign required by A.R.S. § 4-251.

B. Placement of Signs.

1. Each on sale retail liquor licensee shall conspicuously post a sign within 20 feet of each register where sales of liquor are made, or behind the bar.
2. In addition to the requirements of R19-1-214(B)(1):
 - a. A Hotel-Motel licensee shall post at least 1 state supplied sign on the inside of the door of each room containing a mini-bar, or offering alcoholic beverages through room service, or in the alternative, at their own expense, display the required warning in a space measuring at least 1 inch by 2 inches on a room service bar menu, or mini-bar cost list, placard, folder, advertisement tent, or similar item placed in each room so as to be readily observable.
 - b. A retail licensee using a mobile service device for the sale of liquor shall display the sign on such mobile serving device.
3. Each off sale liquor licensee shall conspicuously post a sign where a customer obtains the liquor.

R19-1-215. Credit Law Exception

Wholesalers, distillers, brewers and ~~wine~~ vintners licensed by this Department making sales of spirituous liquor to other licensed wholesalers, distillers, brewers and ~~wine~~ vintners shall be exempt from the credit restriction of A.R.S. § 4-242. The intention of this regulation rule is to permit such licensees the same privileges as out-of-state licensees and to prevent discrimination against Arizona licensees in accordance with the established trade customs in this state.

R19-1-216. Suspension, Adherence to Rules of

During the suspension of a license, the licensee shall ~~neither not~~ allow, permit, or suffer the sale, service, delivery, or consumption of any spirituous liquor on or about the licensed premises, nor order or receive delivery of any spirituous liquor. The notice of suspension shall be prominently displayed on the premises at all times during the period of suspension.

R19-1-217. Inducements, Prohibited

No ~~on-sale~~ retail licensee shall directly or indirectly offer or furnish any gifts, prizes, coupons, premiums, rebates or assumption of any excise, transaction privilege tax or similar inducements wherein the purchase or consumption of any spirituous liquors, including beer and wine, is required to become eligible to receive such gifts, prizes, coupons, premiums, rebates or assumption of any excise, transaction privilege tax or similar inducements. It is provided, however, that nothing herein contained shall prohibit ~~on-sale~~ retail licensees from furnishing advertising novelties of nominal value or services which are customarily trade practices, so long as such fur-

nishing is not contingent upon the purchase or consumption of spirituous liquors or any other alcoholic beverage.

R19-1-218. Change of Address

When a licensee's street number or other official designation of address of the licensed premises is changed, the licensee shall ~~notify the Department of Liquor Licenses and Control must be notified in writing on a form prescribed by the Superintendent within 15 days of such change, and the licensee shall submit his license for proper change of address within the same 15-day period. The license shall be surrendered upon the issuance of a replacement license which reflects the current address of the licensed premises.~~

R19-1-219. Name Change Requirements

No licensee shall change the name of his licensed business without first ~~obtaining the written permission from notifying the department on a form prescribed by the Superintendent. No licensee shall use a name for his licensed business until such name has been approved in writing by the Superintendent. The licensee shall also submit his license for change within 15 days of the written approval of such change of name. The license shall be surrendered upon the issuance of a replacement license which reflects the current name of the licensed premises.~~

R19-1-220. Interstate Shipping, Importation, Labeling, Solicitation, Advertising

For the purpose of securing the protection of the Webb-Kenyon Act (Act of Congress of March 1, 1913, Stat. at L. 699) and the so-called Read Amend (Section 5, Chapter 162 of the Act of March 3, 1917), and the second clause of the 21st Amend of the United States Constitution, it is provided as follows:

1. No person, corporation, partnership, or concern shall ship or offer for shipment or transportation to any place within this state from any place without this state any container, package, or parcel containing spirituous liquor including beer and wine, unless the same shall be consigned to a licensed Arizona spirituous liquor wholesaler.
2. Nothing in this regulation rule shall be construed to interfere with through-interstate shipments of spirituous liquors, including beer and wine, originating outside the state and destined to points in other states, when passing through this state in the custody and under the control of a duly authorized common carrier or transportation company.
3. No person shall ship or introduce into this state any spirituous liquors, including beer and wine, unless such spirituous liquors shall be, from the time they are shipped or introduced into this state until they are delivered to the consignee, in the possession of a duly authorized common carrier or transportation company, except that licensed Arizona wholesalers may transport spirituous liquors for themselves in vehicles owned, leased or rented by such wholesalers when authorized to do so by the Superintendent.
4. No person, common carrier or transportation company or any other concern shall bring, ship, transport, or introduce into this state in any manner whatsoever any spirituous liquors, including beer and wine, unless they are duly consigned to a bona fide Arizona spirituous liquor wholesaler having a license to sell or traffic in at wholesale the particular spirituous liquors so transported and introduced.
5. No person, common carrier, or transportation company shall deliver any interstate shipment consisting of any parcel package or container of any description containing spirituous liquors, including beer and wine, to any premises other than those premises described and set forth in

the license of a duly licensed Arizona spirituous liquor wholesaler, licensed to sell or traffic in the particular liquor so delivered.

6. No manufacturer, distiller, brewer, ~~winer vintner~~ or wholesaler or any officer, director, agent, or employee of any such business directly or indirectly or through an affiliate shall sell, ship, or deliver for sale or shipment or receive or remove from customs custody for consumption any spirituous liquors, including beer and wine, in bottles, unless such products are bottled, packaged, and labeled in conformity with the labeling regulations prescribed by the Federal Alcoholic Administration or any other regulations adopted by the Federal Alcoholic Administration or any other regulations adopted by the government of the United States, officer, bureau or agency thereof. Any Amends or changes in the Federal Alcohol Administration Act or any other regulations adopted by the government of the United States, officer, bureau or agency thereof pertaining to labeling are hereby made a part of this regulation rule without further adoption by the Department.
7. No person shall send or cause to be sent into this state any letter, postcard, circular, dodger, pamphlet, or publication, the purpose of which is the solicitation of an order for any spirituous liquor from and the shipment to any consumer or retail dealer within the state of Arizona.
8. No person shall issue or publish or cause to be issued or published in this state any letter, postcard, circular, pamphlet or publication containing any advertisement, the purpose or intent of which is the solicitation of an order for any spirituous liquors from any consumer or retailer, where such solicitation is contrary to the laws of this state and the rules and regulations of the Superintendent which provide for the shipment of spirituous liquors into this state only when consigned to a duly licensed Arizona spirituous liquor wholesaler who is licensed to sell the particular liquor or liquors so advertised, and only when consigned and delivered to such spirituous liquor wholesaler at the address described and set forth in his license.
9. Nothing contained in subsection (7) or (8) shall be construed to prevent newspapers or other publications having circulation in Arizona from accepting institutional advertising from any distillery, brewery, winery, rectifier or distributor.

R19-1-221. Bottles, Reuse or Refilling Prohibited

- A. No liquor bottle or other container authorized by the laws of the United States or any agency thereof shall be ~~re-used~~ reused for the packaging of distilled spirits, nor shall the original contents, or any portion of such original contents, remaining in a liquor bottle or other such authorized container, be increased by the addition of any substance.
- B. ~~No licensee shall re-use, sell or give away empty spirituous liquor bottles contrary to federal laws and regulations.~~

R19-1-222. Records, Keeping of

All licensees shall keep for a period of not less than 2 years all invoices, records, bills and other papers and documents relating to the purchase, sale and delivery of alcoholic beverages. Such records and papers shall be kept in such conditions of storage as to be easily accessible to the Superintendent ~~or his employees or any peace officer designated by the Superintendent for examination or audit.~~

R19-1-223. Airline railroad, application posting Conveyance License, Application Posting

- A. ~~For the purpose of processing an application filed by an operating airline company, the posting of the application as pre-~~

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vided by A.R.S. § 4-201 shall be accomplished by posting a copy of the application and notice to the public in a conspicuous place at the airport where the airline company conducts its principal business in the state of Arizona.

- B. For the purpose of processing an application filed by an operating railroad company, the posting of the application as provided by A.R.S. § 4-201 shall be accomplished by posting a copy of the application and notice to the public in a conspicuous place at the railroad station where the railroad company conducts its principal business in the state of Arizona.

For the purpose of processing an application filed by a conveyance applicant, the posting of the application as provided by A.R.S. § 4-201, shall be accomplished by posting a copy of the application and notice to the public in a conspicuous place at the location where the conveyance applicant conducts its principal business in the state of Arizona.

R19-1-224. F.A.A. adoption

Federal regulations relating to the advertising of distilled spirits and wine promulgated under the Federal Alcohol Administration Act (27 U.S.C. 201-211), as now existing or as amended in the future, are hereby adopted, except as same may be contrary to the law of Arizona or any regulation of the Superintendent, to govern the advertising of spirituous liquors, other than beer, by manufacturers, wholesalers, and retailers in the state of Arizona.

R19-1-225. Closing, Notice of

- A. No person operating under a spirituous liquor license shall leave his licensed place of business, while operating, under the management of someone other than himself for a period of 30 days or more without filing in writing with the Superintendent a notice giving the name of the person designated by him to conduct the business during his absence. The licensee shall notify the department on a form prescribed by the Superintendent if a license is not used for a period of time over 30 consecutive days. The licensee shall notify the department within 30 days from the date the license was last used.
- B. No person operating under a spirituous liquor license shall fail to keep his licensed place of business open for a period of 30 days or more without filing with the Superintendent a notice of his intent to suspend the operation of the license, unless otherwise provided by law. The licensee shall notify the department on a form prescribed by the Superintendent prior to placing the license back into use.
- C. No licensee shall leave his licensed place of business, while under normal operating conditions, in the control of another, over 30 days without first notifying the department and complying with the required filing of a manager's agreement or letter of notification.

R19-1-227. Identification requirements

With regard to identification of those persons purchasing spirituous liquors, only an operator's or chauffeur's driver's license issued in accordance with A.R.S. § 28-422, in addition to those methods described by A.R.S. § 4-241(A), are acceptable as evidence of age.

R19-1-228. Advertising, Misleading

No licensee shall have upon or about his premises, either within the building or without, any sign, banner, or other medium of advertising which might directly or indirectly lead the public to believe that said licensee is prepared to sell, serve, or furnish a certain brand, grade, or class of spirituous liquors, including beer and wine, which is not actually on sale on the premises of said licensee. No licensee shall label for sale any spirituous liquor which is dispensed through equipment that would directly or indirectly lead the public to believe they are purchasing a brand, grade or class of spirituous liquor, including beer and wine, which is actually not being sold or

used.

R19-1-231. Hotel/Motel/Restaurant Requirements

A Series-15 Hotel/Motel licensee and a Series-16 Restaurant licensee must maintain complete restaurant services as defined under A.R.S. §§ 4-205.01(A) 4-205.01, and 4-205.02(A) 4-205.02, continually during the hours of selling and serving spirituous liquors. Restaurant services, as defined under these statutes, is compulsory to 10 p.m. daily if any spirituous liquors are to be sold and served to the legal hours. A requested meal which is refused during these hours will constitute sufficient evidence that the licensed business has ceased to operate as a bona fide restaurant.

R19-1-232. Interstate standards

No spirituous liquors, either malt, vinous or distilled, containing more than 1/2 of 1% of alcohol by volume may be imported, transported or introduced into this state in any manner whatsoever or furnished, given away, sold or offered for sale unless the same shall in every respect comply with the standards as prescribed by this state as well as by the standards of the state in which manufactured or produced, such standards being the same as if manufactured or produced for consumption and sale within such state.

R19-1-233. Patio - Outdoor Use Permission

No licensee shall serve or allow to be served any spirituous liquors, including beer and wine, to patrons seated at outdoor or patio tables ~~or in a vehicle~~ within the boundaries of the licensee's property without first obtaining the written permission of the Superintendent to maintain such outdoor accommodations and service approval on an extension of premise application from the department. This application will apply to a temporary extension of premise as well as a permanent extension of premise.

R19-1-234. Possession by minors on licensed premises

No licensee shall permit any person on or about his licensed premises to give or furnish any spirituous liquor to any person under the age of 19 years or permit any person under the age of 19 years to have in his possession or consume liquor on his licensed premises, and no licensee shall permit any person under the age of 19 years who has any spirituous liquor in his possession or is under the influence of intoxicating liquor to come into or remain in and about his licensed premises.

R19-1-235. Clothing Requirements, Employees

- A. No licensee shall, on the licensed premises:
1. Employ or use any person as an entertainer or in the sale or service of alcoholic beverages in or upon the licensed premises while such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the areola of the female breast or any portion of his or her pubic hair, anus, cleft of the buttocks, vulva, or genitals;
 2. Employ or use the services of any hostess or other person to mingle with the patrons while such hostess or other person is unclothed or in such attire, costume or clothing as described in subsection (A)(1);
 3. Encourage or permit any person on the licensed premises to touch, caress, or fondle the breasts, buttocks, anus, or genitals of any other person; and or
 4. Permit any employee or person to wear or use any device or covering exposed to view, which simulates the breast, genitals, anus, pubic hair, or any portion thereof.
- B. If any provision of this rule or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or application of the rule which can be given effect without the invalid provisions or application, and to this end the provisions of this regulation rule are severable.

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R19-1-236. Sex Acts Prohibited, Real, or Simulated

- A. No licensee shall permit, on the licensed premises, any person to perform acts of or acts which constitute or simulate:
1. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law;
 2. The touching, caressing or fondling of the breast, buttocks, anus, or genitals; and
 3. The displaying of any portion of the areola of the female breast, or any portion of his or her pubic hair, anus, vulva, or genitals; or
- B. ~~No licensee shall permit any person to use artificial devices or inanimate objects to depict any of the prohibited activities described above.~~
- C. ~~No licensee shall permit any person to remain in or about the licensed premises who exposes to the public view any portion of the areola of the female breast or any portion of his or her pubic hair, anus, vulva or genitals.~~

~~If any provision of this rule or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or application of the rule which can be given effect without the invalid provision or application, and to this end, the provisions of this rule are severable.~~

4. Any violation enumerated in A.R.S. Title 13, Chapter 14, Sexual Offenses, including the following sections:
- a. 13-1402: indecent exposure; classifications;
 - b. 13-1403: public sexual indecency; public sexual indecency to a minor; classifications;
 - c. 13-1404: sexual abuse; classifications;
 - d. 13-1405: sexual conduct with a minor; classifications;
 - e. 13-1406: sexual assault; classification; increased punishment;
 - f. 13-1406.01: sexual assault of a spouse; definition, violation, classification;
 - g. 13-1410: molestation of child; classification;
 - h. 13-1411: crime against nature; classification;
 - i. 13-1412: lewd and lascivious acts; classifications.

R19-1-237. Obscene Films, Pictures Prohibited

No licensee shall permit, on the licensed premises, the showing of film, slide pictures, or any other electronic reproduction depicting:

1. Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law;
2. Any person, being touched, caressed, or fondled on the breast, buttocks, anus, or genitals;
3. Scenes wherein a person displays any portion of the areola of the female breast or any portion of his or her pubic hair, anus, vulva, or genitals; and or
4. Scenes wherein artificial devices or inanimate objects are employed to depict any of the prohibited activities described above.

R19-1-238. Prostitution solicitation prohibited

~~No licensee, or employee thereof, shall knowingly permit, on the licensed premises, any solicitation of, or act of, prostitution.~~

~~If the provisions of this rule or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or application of the rule which can be given effect without the invalid provision or application, and to this end, the provisions of this rule are severable.~~

R19-1-239. Filing of Legal or Equitable Interest

- A. In accordance with A.R.S. § 4-112(B)(4), all persons having a legal or equitable interest in a spirituous liquor license shall file with the Superintendent a statement of such interest on a

form prescribed and furnished by the Department. Notice of termination of such interest shall be filed in writing by the interest holder upon final determination of the interest. Interest holders shall immediately file amended statements to reflect any change in the current statements presently on file.

- B. The Superintendent may periodically, by notice to the holders of interests filed under this regulation rule and under A.R.S. § 4-112(B)(4), require such interest holders to verify in writing to the Superintendent that the statement presently on file is currently correct and accurate and, if not, such interest holder shall immediately file an amended statement or termination notice. If no response is received by the Superintendent within 30 days of the mailing of such notice, the interest shall be deemed terminated.
- C. All persons having filed statements of interest in accordance with this regulation rule and the statute shall be given notice of all matters and/or actions affecting or regarding the spirituous liquor license in which they have an interest.
- D. Notice as required in subsection (C) above shall be fully effective by mailing a copy thereof by registered or certified mail in a sealed envelope with postage prepaid and addressed to such person at his address as shown by the statement on file with the Board Superintendent. Service of such notice shall be complete when deposited in the U.S. Mail.
- E. All interest holders who are entitled to receive notice as provided for herein above shall have the right to appear and participate in person and through counsel in any hearing held before the Board or Superintendent affecting the subject spirituous liquor license as his interests may appear.
- F. The statement of legal or equitable interest shall allow the person filing said statement to participate in the proceedings and shall not in any manner bind the Superintendent or the state Liquor Board concerning the matter under consideration.

R19-1-241. Tapping Equipment, Furnishing, Selling, and Servicing

- A. Beer manufacturers may sell to beer wholesalers and beer wholesalers may furnish to on-sale retail licensees the following items of equipment in the case of either an initial installation for a new account or a change over of equipment from 1 tapping system to another. Such equipment shall remain the property of the wholesaler.

1. Approved equipment systems:

Peerless	Golden Gate
a. Tap Rod	a. CO ₂ Hose
b. Valve	b. Beer Hose
c. Beer Hose	c. Couplings
d. CO ₂ Hose	d. Vent
e. Washers	e. Taps
f. Couplings	f. Valves (Golden Gate)
g. Clamps	g. Clamps
	h. Washers

Jet Western	Hoff-Stevens
a. Jet Tap Assembly	a. CO ₂ Hose
b. Draw Tube	b. Beer Hose
c. Beer Hose	c. Couplings
d. CO ₂ Hose	d. Vent
e. Tail Pieces	e. Clamps or Wire
f. Shut-off Valve	f. Washers
g. Washers	
h. Clamps	

2. Other equipment systems -- Manufacturers may qualify other tapping systems by submitting the trade name and collateral apparatus to the Department for approval.

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- B. Beer wholesalers may sell to on-sale licensees for cash only the following items of equipment at a price not less than the cost for which the wholesaler purchased the equipment:
1. CO₂ Gas
 2. CO₂ Regulators
 3. Facets
 4. Shanks or Bent Tubes
 5. Air Distributors
 6. Blower assembly, beer switches, complete faucet standard, drip pan, P.V.C. pipe, or any item that is necessary to prepare a draught system for proper operation.
- C. A wholesaler may replace, at no charge to the retailer, bonnet washers, friction rings, valve stems, and coupling gaskets.
- D. If 1 wholesaler is splitting an account with another wholesaler, the wholesaler initiating the split will supply, if necessary, the inline regulator which will remain the wholesaler's property and will be removed if the account is discontinued.
- E. The wholesaler may maintain periodic cleaning schedules of on-sale retailers' draught equipment and may sell to the retailer any sanitizing materials utilized in the cleaning of draught beer equipment, at not less than cost.

R19-1-242. Retail Agents

The following shall apply in all cases where 2 or more licensees pool their purchases for alcoholic beverages from a wholesaler:

1. Definition: For purposes of this regulation rule, the term "Agent" means Registered Retail Agent as defined in A.R.S. § 4-101(15).
2. For purposes of this regulation rule, the term "cooperative purchases" shall indicate that 2 or more retailers have entered into an agreement whereby 1 of them is designated the agent for each of them for the purpose of purchasing spirituous liquors.
3. Any agreement between a retailer and a retail agent to make "cooperative purchases" shall be in writing on a form prescribed by the Superintendent. The Agreement must be filed with and approved by the Department of Liquor Licenses and Control. The Agreement should provide that, upon consummation of the sale by the wholesaler, title to the merchandise so purchased shall vest in each of the parties to the Agreement, in accordance with his proportionate share of the order. The Agreement shall be signed and dated by each party to the Agreement. Each party to the Agreement shall have a copy of the Agreement available for inspection by any employee of the Department of Liquor Licenses and Control or any law enforcement peace officer. The agent will be provided with a Certificate of Registration which shall be displayed upon the request of any employee of the Department of Liquor Licenses and Control, any law enforcement peace officer, or any spirituous liquor licensee. The retail agent shall file a listing of the names, business addresses and license series of those licensed retailers who have authorized the agent to purchase on their behalf.
4. All orders for "cooperative purchases" from a wholesaler shall be placed by the retail agent, and payment for that order shall be made by such agent. The retail agent shall be responsible for the fiscal operation of all "cooperative purchases". There shall be no exchanges of merchandise after delivery has been made by the wholesaler. Bona fide delivery errors are excepted if immediately recognized and documented.
5. A wholesaler shall comply with all invoice and record-keeping procedures in accordance with R19-1-222, prevailing federal regulations and requirements of the

Department of Revenue. The wholesaler shall prepare a master invoice for the agent of each "cooperative purchase" which shall detail the individual purchases made by each member of the "cooperative purchase", a copy of which must be furnished each member. The master invoice shall dictate the specific discount for each "cooperative purchase".

6. Agents shall follow recordkeeping procedures so as to account for all orders and purchases of and deliveries to retailers and describe any storage of spirituous liquors. Such records must relate directly to the orders, purchases, and deliveries made by each retailer represented by the agent. Agents shall maintain in accordance with R19-1-222, all activity reports and invoices, and any other records requested by the Superintendent, and shall make such available for inspection upon request.
7. Agents shall not store spirituous liquors on any premise other than a licensed retail establishment without first obtaining written permission from the Superintendent. Wholesalers may deliver to an agent's licensed premises or any off-premise warehouse storage facility of the agent which has been approved by the Superintendent. The agent may deliver the merchandise to the individual retailer.
8. The Superintendent may cancel, after a hearing pursuant to A.R.S. § 4-210, any Certificate of Registration issued to an agent for failure to comply with this regulation rule.
9. The agent may charge members of the cooperative a fee for services rendered to retailers belonging to the cooperative association. Under no circumstances may the agent change the price quoted on the wholesaler's invoice.
10. Agent shall file with the department a list of the names, business addresses and license series for those retailers who have authorized him to act on their behalf. Any changes in the retailers involved in this agreement must be reported to the department within 10 days of the change.

R19-1-243. Surrender of Licenses/Interim Retail Permits

- A. Surrender of retail licenses for purposes of compliance with the interim permit requirements of A.R.S. § 4-203.01 shall be accomplished by any of the following:
1. The license is delivered to the Department by mail or in person with a notarized signature of surrender by the license holder(s); or
 2. In the event the license is lost or cannot be located, the license holder(s) indicates in a signed, notarized statement the surrender of the license; or
 3. The license holder(s) has abandoned the licensed premise and the license with no intention of returning as demonstrated by the following:
 - a. The premises have been vacant during normal operating hours for a period of 30 days; and
 - b. The licensee has failed to notify the Superintendent of his intention to suspend the operation under the license as required by A.C.R.R. R19-1-225(B) R19-1-225; and
 - c. The licensee cannot be located by the Department at his last known address as reflected in the Department's records; and
 - d. The person who delivered the license to the Department has submitted a notarized statement asserting that, to the best of his knowledge, the licensed premises have been vacant during normal operating hours for a period of 30 days and the license holder(s) has abandoned the license and licensed premises.

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- B. The Superintendent may deny the surrender of any license, regardless of the method of surrender, if:
1. The licensee is delinquent in payment of taxes to any municipality or the state or any political subdivision thereof; or
 2. A complaint has been filed and is pending against the licensee alleging a violation of any provision of A.R.S. Title 4, or any rule or regulation thereof; or
 3. The ownership of the license is contested; or
 4. Civil proceedings involving the liquor license are pending before any Arizona or federal court.

R19-1-244. Special Event License

- A. An applicant for a Special Event License shall make application on a form prescribed by the Department. The application form shall be filed in triplicate with the Department. Two copies shall be remitted to with the local authority for approval or denial. Applications approved by the local authority will be reviewed by the Superintendent. If the applicable requirements of A.R.S. § 4-203.02 Title 4 are met, the Superintendent shall issue a Special Event License. The application form shall be may be approved and validated by the Department and a copy returned to the local governing authority and the applicant. The applicant's validated copy shall constitute the Special Event License and shall be conspicuously posted at the site of the Special Event.
- B. Qualifying organizations as defined in A.R.S. § 4-203.02(B) may be granted no more than 2 a Special Event Licenses license for no more than 10 days in a calendar year. Each Special Event License may be issued for 2 Events shall be held on consecutive days and at the same location or additional licenses will be required. A Special Event License authorizes the sale of spirituous liquor for the period authorized on the license, after which it and is automatically terminated upon closing of the last day of the event or the expiration of the license, whichever occurs first.

R19-1-245. Commercial Coercion and Bribery

- A. It shall be unlawful for a wholesaler, distiller, vintner, brewer or importer to induce a retailer to purchase spirituous liquor from the producer or wholesaler to the exclusion, in whole or in part, of spirituous liquor sold or offered for sale by other persons through any of the following means:
1. By furnishing, giving, renting, lending or selling to a retail licensee, articles of primary utilitarian value including, but not limited to, the following: clocks, service lamps, ash trays, coasters, napkins, beer mats, book matches, menu cards, folders, meal checks, container mats, back bar mats, thermometers, jiggers, stirring spoons, pouring spoons, glasses, glassware or any other item potentially useful to the retailer in the conduct of his business except as provided elsewhere in these rules.
 2. By furnishing any type of decorations to a retail licensee relating to any holidays throughout the year.
 3. By furnishing financing or credit for the retail licensee to acquire or provide any part of the cost of equipment used or useful to a retail licensee through the sale of a product or otherwise.
 4. By providing any service, including the stocking and pricing of merchandise, to a retail licensee; provided, however, that the practices set forth in subsection (B) of this rule shall not be unlawful.
 5. By paying or crediting a retail licensee for any promotion, advertising, displaying, public relations or distribution services or by participating or sharing with a retail licensee any promotion or advertising costs through any media.

6. By directly or indirectly guaranteeing a loan or repayment of a financial obligation to a retail licensee or by providing any monetary assistance in any form as an aid to a retail licensee.
7. By directly or indirectly entering into any form of credit transaction with a retail licensee.
8. By directly or indirectly engaging in any practice requiring a retail licensee to take and dispose of a quota of spirituous liquors.
9. By directly or indirectly engaging in practices promising or granting a retail licensee a bonus, premium or other compensation by a distillery, vintner, brewery, rectifier, blender or other producer or the wholesaler.

- B. The following practices are not unlawful inducements as defined by A.R.S. § 4-243(2)(b):

1. Stocking a limited supply of spirituous liquors in what is commonly known as "cold box".
2. Rotating spirituous liquors.
3. Furnishing advertising novelties of nominal value, such as key chains, sports schedules, recreation guides, cocktail specialty books or other items which are not directly utilized in the operation of a retail licensee's business by the wholesaler to the retailer; provided, however, that the Department be given no less than 30 days' written notice prior to the furnishing of such items.
4. Furnishing on-sale retail licensees with equipment necessary to operate a draft box and servicing and repairing those items of equipment to retain the quality of the product.
5. Furnishing a licensed retailer with a refrigerated vehicle or storage facility for use at public events, such as rodeos and golf tournaments, if approved in writing. The Department will not approve of a wholesaler's personnel engaging in the sale of the products at such events. The use of storage facilities or vehicles will be approved for storage and transportation purposes only.

R19-1-246. Security for transaction privilege tax and affiliated excise tax payments Foodstuffs

- A. The applicant for each new, renewal, or transfer of a Series 07, 08, 10, 11, 14, 15, 16 or 22 Spirituous Liquor License shall submit a completed copy of the affidavit shown in Appendix A. In the case of an application for the renewal or transfer of an existing license, unless the licensee certifies in the affidavit that it has paid all transaction privilege taxes and affiliated excise taxes incurred as a result of the sale of spirituous liquor for the 2 years prior to the filing of the application, the licensee shall also file with the renewal or transfer application a surety bond in the form shown in Appendix B or 1 of the following surety bond alternatives:
1. A certificate of deposit or investment certificate payable or assigned to the State Treasurer issued by a bank doing business in this state and insured by the Federal Deposit Insurance Corporation.
 2. A certificate of deposit, investment certificate or share account payable or assigned to the State Treasurer and issued by a savings and loan association doing business in this state and insured by the Federal Savings and Loan Insurance Corporation.
 3. A certificate of deposit, investment certificate or share account payable or assigned to the State Treasurer and issued by a credit union doing business in this state and insured by the National Credit Union Administration.
- B. For purposes of determining the amount of surety bond or surety bond alternative required by subsection (A):
1. An applicant for a new license is deemed to require a bond in the amount of \$2,000.

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2. If the licensee has engaged in the sale of spirituous liquor for the full 12 month period prior to filing its application, the amount of the tax liability shall be computed by multiplying the total of its state and local transaction privilege taxes and affiliated excise taxes incurred as a result of the sale of spirituous liquor during this 12-month period times 0.41 and determining the applicable bond amount by referring to the schedule in subsection (C).
3. If the licensee has engaged in the sale of spirituous liquor for a period less than 12 months prior to filing its renewal application, the amount of the tax liability shall be computed by dividing the total of all its state and local transaction privilege taxes and affiliated excise taxes incurred as a result of the sale of spirituous liquor during this same period, by the total number of months the licensee has been in business, and then multiplying this amount by 5 and determining the applicable bond amount referring to the schedule in subsection (C).

C. A surety bond or surety bond alternative shall be filed with the Department in accordance with the following schedule:

TAX LIABILITY	AMOUNT OF BOND
\$ 0 ————— 2,000	\$ 2,000
2,001 ————— 7,000	7,000
7,001 ————— 12,000	12,000
12,001 ————— 17,000	17,000
17,001 ————— 22,000	22,000
22,001 ————— 27,000	27,000

27,001 ————— 32,000	32,000
32,001 ————— 37,000	37,000
37,001 ————— 42,000	42,000
42,001 ————— 47,000	47,000
47,001 ————— 52,000	52,000
52,001 ————— 57,000	57,000
57,001 ————— 62,000	62,000
62,001 ————— 67,000	67,000
67,001 ————— 72,000	72,000
72,001 ————— 77,000	77,000
77,001 ————— 82,000	82,000
82,001 ————— 87,000	87,000
87,001 ————— 92,000	92,000
92,001 ————— 97,000	97,000
97,001 ————— 102,000	102,000

For every additional \$5,000 of tax liability, the licensee shall post an additional amount in \$5,000 increments on its surety bond or surety bond alternative.

D. If a surety bond or surety bond alternative expires or is cancelled, a substitute shall be filed as follows:

1. If a surety bond is cancelled, the licensee shall file its substitute within 14 days after receiving notice of cancellation.
2. If a surety bond alternative matures, its substitute shall be filed on or before the date of maturity.

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APPENDIX A

AFFIDAVIT

STATE OF ARIZONA)
) ss.
County of Maricopa)

On behalf of _____
Name of Licensee/Applicant

I the undersigned, being first duly sworn, do hereby depose and declare under penalty of perjury that:

PLEASE CHECK THE APPROPRIATE BOX

- ☐ For at least two years immediately preceding this application for a new license, licensee has been engaged in the sale of spirituous liquors in this state and made timely payment of all transaction privilege taxes and affiliated excise taxes incurred as a result of the sale of spirituous liquor.
- ☐ In conjunction with the application relating to license No. _____, licensee herewith files with the Superintendent the surety bond prescribed in Appendix B, or surety bond alternative as authorized by subsection (A) of A.C.R.R. R19-1-246 and in the amount prescribed pursuant to A.C.R.R. R19-1-246.
- ☐ For at least two years immediately preceding this application relating to license No. _____, licensee has made timely payment of all transaction privilege taxes and affiliated excise taxes incurred as a result of the sale of spirituous liquor.
- ☐ Applicant has not been engaged in the sale of spirituous liquors in this state for the two years immediately preceding this application for a new spirituous liquor license and licensee herewith files with the Superintendent the surety bond prescribed in Appendix B, or the surety bond alternative authorized by subsection (A) of A.C.R.R. R19-1-246, in the amount of \$2,000.

Licensee, Applicant, Partner or Agent for Corporation

SUBSCRIBED AND SWORN to before me this day of January 1985.

Notary Public

My Commission expires:

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APPENDIX B

BOND OF LIQUOR LICENSEE - UNDER A.R.S. § 4-209.02

BOND NO. _____

KNOW ALL MEN BY THESE PRESENTS:

That _____
as principal, and _____
a corporation authorized to transact a surety business in the state of Arizona as surety,
are held and firmly bound unto the state of Arizona in the sum of _____
lawful money of the United
States of America, for the payment of which well and truly to be made, by these presents
we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly
and severally.

Whereas the bounden principal above named is a retailer of spirituous, vinous,
and malt liquors in the state of Arizona and desires to execute a bond pursuant to the
provisions of A.R.S. § 4-209.02.

Now, therefore, the condition of the above obligation is such that if such
bounden principal above named shall pay all taxes, penalties, and other obligations
incurred by the licensed business which are specified by the provisions of A.R.S. Title
4, Section 4-209.02, and be owed by such bounden principal during the term of this
bond, then this obligation shall be void; otherwise it shall be enforceable. After notice
and a hearing pursuant to A.R.S. Title 4, Section 4-210, the Superintendent may order
forfeited to this state and any affected political subdivision any part or all of the surety
bond for nonpayment of those taxes.

The term of this bond is continuous and regardless of the number of years it
remains in force and effect, the liability of the surety in the aggregate shall not exceed
the penalty stated herein. The principal or surety may at any time terminate this bond by
written notice to the ARIZONA DEPARTMENT OF LIQUOR LICENSES AND
CONTROL, 1645 W. Jefferson, #227, Phoenix, Arizona 85007. Such termination shall
become effective sixty (60) days after the actual receipt of said notice by the ARIZONA
DEPARTMENT OF LIQUOR LICENSES AND CONTROL. Termination of this bond
shall not affect any rights or liabilities which shall have accrued under this bond prior to
such termination.

IN TESTIMONY WHEREOF the said principal has subscribed his name and
affixed his seal and the said surety has caused its name and seal to be hereunto affixed
by its duly authorized attorney at on the day and year first hereinabove written.

Dated this _____ day of _____, 198_____

Principal

By _____

Surety

By _____

Attorney

COUNTERSIGNED:

By _____
Arizona Resident Agent

A producer/wholesaler may sell foodstuffs to a retailer at a price
agreed upon, but not less than the cost to the producer/wholesaler.

R19-1-247. Non-alcoholic Malt Beverages, Wines, and
Cocktail Mixers
Malt products, wines and cocktail mixers, that are non-alcoholic,

may only be sold to retailers under the same rules that apply to the
sale of spirituous liquors. For purpose of this Section "cocktail mix-
ers" shall mean pre-prepared liquid or solid mixtures marketed pri-
marily for mixing with spirituous liquor to prepare a beverage.

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R19-1-248. Display of License

All licensees shall display their liquor license in a conspicuous place readily available for inspection by any peace officer, distributor, or wholesaler.

R19-1-249. Nothing of Value to Retailer

Unless authorized by statute, a producer/wholesaler shall have no interest in a licensed retail business. Except as provided by Title 4, A.R.S. or the rules promulgated thereunder, a producer/wholesaler shall not sell, give, or lend anything of value including a service to a retailer.

R19-1-250. Exceptions to General Rule

The following are exceptions in which producers/wholesalers may furnish to the retailer something of value, as long as the retailer is not induced to purchase spirituous liquor from the producer/wholesaler to the exclusion, in whole or in part, of spirituous liquor sold or offered for sale by other persons.

A. Licensed special events

1. A producer/wholesaler may participate in an event at which liquor is sold by furnishing advertising, sponsorship, services, or other things of value as long as:
 - a. The event has been issued a special event license.
 - b. The special event license was issued to a civic, religious, or fraternal group but not a political group.
 - c. If the event is being held at a location that is a licensed retail location nothing of value is left at the location or given to the retailer or retail employees at or following the event.
2. A producer/wholesaler may donate but not sell directly to the group issued the special event license as long as it is not a political group. If the special event licensee is buying spirituous liquor at retail to resell, the wholesaler may invoice the sale through a retailer following completion of the event.
3. At a location issued a special event license spirituous liquor sales may be handled in the following ways:
 - a. In the case of an otherwise unlicensed location the nonprofit group is responsible for sales of spirituous liquor.
 - b. In case of a licensed retail location 1 of the following may occur:
 - i. During the special event the regular licensee ceases all sales of spirituous liquor and the nonprofit group is responsible for all sales of spirituous liquor.
 - ii. During the special event the regular licensee conducts all dispensing/serving under the regular retail license and the nonprofit group does none. The regular licensee is responsible for proper service. The liquor dispensed is that purchased by the retailer from the wholesaler.
 - iii. During the special event the regular licensee conducts all dispensing/serving under the special event license and the nonprofit group does none. The regular licensee and the special event licensee are responsible. The spirituous liquor dispensed is that purchased/donated by/to the special event licensee.
 - iv. During the special event licensed location is split into an area in which the regular licensee exclusively dispenses and is responsible for all spirituous liquor sales and another separate area in which the nonprofit group exclusively dispenses and is responsible for all spirituous liquor sales.

B. Resets; rotations; displays

1. The producer/wholesaler may stock, reset and rotate at the retail establishment any product that he/she sells to the retailer. Such stocking may include pricing, cleaning shelves, furnishing point of sale written advertising that includes pricing data (as long as it complies with sign limitations), rotating product, cleaning product, or otherwise preparing the product for sale at the point of sale, but may not perform these functions in warm or cold storage areas from which the consumers may not purchase product. Retailers shall not require stock reset or rotation as a condition of shelf space, cold box space, or product display space.
 2. A producer/wholesaler may furnish reset services as long as a representative of each affected wholesaler is invited to attend such reset by the retailer with reasonable notice not less than 2 working days before the reset and the retailer consents to the reset. As part of the reset the producer/wholesaler may move his/her own product or that of a competitor.
 3. A producer/wholesaler may set up a display of his/her product and may with the consent of the retailer move a competitor's product and may move nonalcoholic products or items as necessary to set up the display.
 4. No retail display may consist of an item of potential utilitarian value to the retailer or any person after March 1, 1987, facsimiles are acceptable.
- C. Furnishing retailer customers with items of value**
1. A producer/wholesaler may furnish to retail customers advertising novelties which are not directly utilized in the operation of the retail business. Each novelty must be of a value less than \$5.00. The items must be given to the customer by the producer/wholesaler employee and may not pass through the retailer's hands. None of the items may be given to the retailer or the retailer's employees or be left at the retail establishment.
 2. Sports schedules that list events at a licensed establishment are permitted.
- D. Refrigerated vehicles. A producer/wholesaler may furnish a refrigerated vehicle for an event at a licensed or unlicensed location if a special event license has been obtained (excluding political events) for the event. If there is no special event license no approval is granted. The vehicle may be used for storage and dispensing, but no producer/wholesaler personnel may dispense.**
- E. Signs and other print advertising**
1. All advertising material must comply with the existing sign rule, R19-1-204. The department will exercise discretion in regards to temporary signs complying with the cited requirements in R19-1-204. A sign is temporary if it is not displayed outside the retail establishment for longer than 7 days or inside for longer than 45 days.
 2. A poster may advertise an event in advance of the event as long as it meets these same requirements and is visible from inside establishments only.
 3. The temporary sign may be any size or made of any material. It may not be utilitarian except as to its advertising content. Special events fully licensed are not subject to this limitation. Furnishing advertising copy (ad slicks) or nominal value is permissible.
 4. Permanent signs may be of any value.
- F. Sporting events. A producer/wholesaler may provide to a licensed retailer financial or other forms of event sponsorship, including advertising, if it is in conjunction with a sporting event and no item of utilitarian value remains with the retailer or at the retail location following the conclusion of the sport-**

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ing event. Signs in connection with sporting events are not subject to size or value limitations.

- G. Tradeshows and convention. A producer/wholesaler may participate by sampling, sponsorship, advertising, or otherwise in tradeshows and conventions at licensed or unlicensed establishments in which there is no special event license as long as no regular licensee benefits other than by the promotion of the event itself. Sampling limitations apply, see subsection (Q).
- H. Concerts. A producer/wholesaler may participate by sponsorship, advertising or otherwise in a concert at a licensed location with the capacity in excess of 500 persons as long as the regular licensee does not benefit other than by the promotion of the event itself.
- I. Wine or drink menus. A producer/wholesaler may furnish to a retailer wine or drink menus if the menus have no utilitarian value beyond that of a wine or drink menu and are made available to all retail accounts utilizing such menus.
- J. Tapping equipment. All items authorized by R19-1-241 are permitted for all alcoholic beverages.
- K. Driver sales. All alcoholic beverages may be sold without prior order from the retailer to the wholesaler, commonly called "driver sales".
- L. Coupons and rebates. Coupons and rebates may be distributed by any method including via point of sale, except a producer/wholesaler may not list specific retailers or participate in a retailer's advertisement.
- M. Incentive programs between producers and wholesalers. Arizona law does not regulate incentive programs involving only producers and wholesalers.
- N. Participation at events without alcoholic beverages. The department does not regulate the participation by producers/wholesalers in events at which spirituous liquor is not sold, offered or served.
- O. Delivery to chain stores/co-ops. Quantity purchases of volume discounted products must be entirely delivered to the approved storage facility of the chain store or retail cooperative.
- P. Product returns. At the wholesaler's discretion, perishable product of a retailer who will be seasonably closed or who is going out of business for 6 months or more may be exchanged, credited, or refunded.
- Q. Sampling by producers/wholesalers. Approved sampling procedures are:
 - 1. Sampling may be used only for new products or products unfamiliar to the person receiving the sample.
 - 2. Sampling operations must be conducted under the supervision of an employee of the sponsoring distiller, vintner, brewer or wholesaler and accurate records of all sampling procedures and products must be retained.
 - 3. Sampling at on-premises events or wholesaler's premises must be limited to 12 ounces of beer or "cooler" products, 6 ounces of wine, and 2 ounces of distilled spirits per person per brand.
 - 4. Sampling at off-sale events must be limited to 72 ounces of beer, "cooler" or wine products, and 750 milliliters of distilled spirits per person per brand.
 - 5. Sampling from a package with a broken seal may be conducted on on-sale and wholesaler's premises only. No package may be broken or contents consumed on off-sale premises.
 - 6. The wholesaler's representative, when requesting a retail on-sale licensee to prepare a drink for the customer, must pay the retail on-sale licensee for the sample drink.
 - 7. When sampling is conducted on off-sale premises, sampling wares must be distributed to the customer in sealed original packages only.

8. The producer/wholesaler may not buy the retail licensee, or his employees, a drink during their working hours or while they are engaged in waiting on or serving customers.

9. The producer/wholesaler may not give a keg of beer, or any spirituous liquor, or other gifts or benefits to a retail licensee.

10. All sampling procedures must conform to federal sampling laws and rules.

R. Market research programs. Bona fide market research via personal or mail intercept is authorized if:

1. The products being distributed are shipped through or obtained from an authorized licensed wholesaler.

2. People handling the products are 19 years old or older.

3. Participants are of legal drinking age.

4. The total amount of product being tested does not exceed 72 ounces of beer, "cooler", or wine product or 750 milliliters of distilled spirits.

S. Registration of salespersons or solicitors

A.R.S. § 4-222, which required the registration of producer/wholesaler salespersons and solicitors has been repealed. Registration applies to agents of retail cooperatives only.

R19-1-251. Employee Records

All on-sale licensees shall keep a record of all employees, listing such by full legal name, dates and place of birth, address, schedule of work hours and responsibilities while on duty. Such records are to be kept on the premises of the licensed establishment for 2 years and available for inspection by any peace officer.

R19-1-252. Interim Permit/Tax Violations

The Superintendent may refuse to issue an interim permit or issue a license until arrangements have been made with the taxing authority to satisfy the payment of all delinquent taxes. Any arrangements must be verified in writing from the applicable taxing authority and submitted to the Superintendent.

R19-1-253. License Restriction Audits

The licensee shall comply with all the requirements for the type of license issued for their establishment. The department has the discretion to conduct liquor inspections to verify compliance and, if necessary, order an audit of the business for validation.

R19-1-254. Microbrewery/Retail

For purposes of A.R.S. § 4-243, a microbrewery is considered an "other producer".

R19-1-255. Age Restrictions

No licensee, or employee thereof, shall employ a person under the age of 19 as an exotic entertainer. This rule shall be effective January 1, 1991.

R19-1-256 Change in Proprietary Interest

A. No licensee shall transfer, assign or make any change in the financial set up of his business which in any way results in a controlling interest being obtained by any party, directly or indirectly, without first promptly filing an application for a transfer with the department pursuant to A.R.S. § 4-203.

B. Any change in the status of the corporate ownership is to be promptly reported to the superintendent including a list of the corporate officers and directors.

**ARTICLE 3. UNLICENSED PREMISES DEFINITIONS AND
HEARING PROCEDURES**

R19-1-301. Definitions

In this Article, unless the context otherwise requires:

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1. "Business establishment or premises" means the real property and improvements from which an enterprise or organized undertaking is conducted regularly for profit.
2. "Entertainment" means any form of amusement including, but not limited to, a performance of theater, dance or opera, musical concerts, motion pictures, videotapes, audiotapes, radio, television, carnivals, games of chance or skill, shows, lectures or sports events.
3. "Food" means any edible substance for the nourishment of the body and consists of hot fare commonly ordered at lunch or dinner prepared at the premises.
4. "Membership fee" or "cover charge" means any consideration, direct or indirect, paid to the business establishment by patrons to gain entry.
5. "Minimum purchase" or "rental requirement" means an amount of money or other consideration required to be paid by patrons of the business establishment as a condition to enter or remain on the premises.
6. "Goods or services" includes all types of commodities, stock, or wares, and any method of providing the use of something needed or desired.
7. "Incidental convenience" means the goodwill the business receives from permitting patrons to possess and consume a minimal amount of spirituous liquor while they are present to obtain the goods or services regularly offered to all patrons.
8. "Small restaurant" means a public eating place which has facilities for keeping, preparing and cooking foods for lunch or dinner and accommodations to provide food service for up to 40 persons.
9. "Catering establishment" means any premises available for hire for a particular function, occasion or event and which furnishes food and service for up to 300 persons.
10. "Association" means an organization of persons having common interests and purposes, established as a non-profit corporation or fraternal and/or benevolent society, which owns, leases or occupies a premises used exclusively for the organization's purposes, which operates for recreational, social, patriotic, political, benevolent or athletic purposes, and which has accommodations for less than 300 persons.
11. "Private social function" means any occasional communal affair, gathering or party occurring at a business establishment is limited to selected, invited guests.
12. "Front entrance" means the door commonly used by the general public as entrance to an establishment.
13. "Spirituous liquor" includes alcohol, brandy, whiskey, rum, tequila, mescal, gin, wine, porter, ale, beer, any malt liquor, malt beverage, absinthe or compound or mixture of any of them, or of any of them with any vegetable or other substance, alcohol bitters, bitters containing alcohol, and any liquor mixture or preparation, whether patented or otherwise, which produces intoxication, fruits preserved in ardent spirits, and beverages containing more than 1/2 of 1% alcohol by volume.
2. The business establishment limits possession or consumption of wine or beer on the premises to the hours between 12 p.m. and 10 p.m.
3. The business establishment or premises allows a patron to possess no more than 24 ounces of beer per person, or 6 ounces of wine per person to be consumed on the premises.
4. The business establishment notifies the department on a form prescribed by the department that it permits patrons to consume or possess beer or wine on the premises.
5. The business establishment and/or its proprietor, manager, comptroller, controlling person or employee shall not:
 - a. Buy spirituous liquor for resale, sell spirituous liquor, deal in spirituous liquor or possess spirituous liquor at the business establishment.
 - b. Allow a person under the legal drinking age to receive, have in possession, or consume spirituous liquor at the business establishment.
 - c. Allow employees to handle spirituous liquor at the business establishment, except an employee over 19 years of age may clean up spirituous liquor packages consumed by patrons.
 - d. Consume spirituous liquor while on or about the premises, or appear in an intoxicated or disorderly condition.
 - e. Allow an intoxicated person to possess or consume spirituous liquor at the business establishment, or allow or permit an intoxicated or disorderly person to come into or remain on or about the premises, except that an intoxicated person is not prohibited from remaining on the premises for a period of time not to exceed 30 minutes after the state of intoxication is known, or should have been known, in order that the intoxicated person may be transported from the premises by a non-intoxicated person.
 - f. Allow patrons to possess or consume beer or wine at the business establishment on election day during the hours polling places are open for voting.
 - g. Store, keep, receive or provide refrigeration for beer or wine on the premises which belong to patrons of the business establishment.
 - h. Allow drinking contests or other games involving the consumption of spirituous liquor.
 - i. Permit, whether completed or preparatory, the unlawful possession, use, sale, or offer for sale, transfer, or offer to transfer of narcotics, dangerous drugs, or marijuana on the premises.
 - j. Permit, whether completed or preparatory, prostitution or the solicitation of prostitution on the premises.
 - k. Permit, whether completed or preparatory, unlawful gambling on the premises.
 - l. Permit, whether completed or preparatory, trafficking in stolen property on the premises.
 - m. Permit any person other than a peace officer, the owner, or an employee acting with permission of the owner, to be in possession of a firearm while on the premises. This subsection shall not be construed to include a situation in which a person is on the premises for a limited time in order to seek emergency aid and such a person does not consume or possess spirituous liquor. This subsection shall not apply to the exhibition or display of a firearm in conjunction with a meeting, show, class or similar event.
 - n. Permit any person other than a peace officer, the

R19-1-302. Exemptions to A.R.S. § 4-244.05

Small restaurants, catering establishments, associations and business establishments hosting private social functions are exempt from A.R.S. § 4-244.05 if the business establishment meets all of the following conditions:

1. The possession or consumption of spirituous liquor on the premises is limited to wine and beer and is permitted as an incidental convenience to patrons of the business establishment.

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- owner, or an employee acting with permission of the owner to possess a firearm while on the premises. This subsection shall not apply to the exhibition or display of a firearm in conjunction with a meeting, show, class or similar event. It shall be a defense to action under this subsection if the owner or employee requested assistance of a peace officer to remove such person.
- o. Lock, or permit to be locked the front entrance to the establishment until all patrons and off-duty employees have left the premises. One person may remain inside the business establishment to escort on-duty employees.
 - p. Permit the number of patrons within the business establishment to exceed the maximum occupancy limitations. The maximum occupancy limitations are:
 - i. Small restaurant: shall not exceed 40 patrons.
 - ii. Catering establishment: shall not exceed 300 patrons.
 - iii. Associations: shall not exceed 300 patrons.
 - iv. Business establishments hosting private social functions: shall not exceed 300 patrons.
 - q. Permit any person to appear at the business establishment while the person is unclothed or in such attire, costume, or clothing as to expose to view any portion of the areola of the female breast, or any portion of his or her pubic hair, anus, cleft of the buttocks, vulva, or genitals.
 - r. Encourage or permit any person on the premises to touch, caress, or fondle the breasts, buttocks, anus, or genitals of any other person.
 - s. Permit any person to wear or use any device or covering exposed to view which simulates the breast, genitals, anus, pubic hair, or any portion thereof.
 - t. Permit or allow on the premises any person to perform acts of or acts which constitute or simulate:
 - i. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law; or
 - ii. The touching, caressing or fondling of the breast, buttocks, anus, or genitals; or
 - iii. The displaying of any portion of the areola of the female breast, or any portion of his or her pubic hair, anus, vulva, or genitals.
 - u. Permit on the premises the showing of film, slide pictures, or any other electronic reproductions depicting:
 - i. Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law; or
 - ii. Any person being touched, caressed, or fondled on the breast, buttocks, anus, or genitals; or
 - iii. Scenes wherein a person displays any portion of the areola of the female breast, or any portion of his or her pubic hair, anus, vulva, or genitals; or
 - iv. Scenes wherein artificial devices or inanimate objects are employed to depict any of the prohibited activities described above.
 - v. Permit the consumption or the possession of spirituous liquor in a broken package on adjacent property under the business establishment's control including outdoor or patio tables or within a vehicle.
 - w. Permit the removal of beer or other wine from the business establishment in other than the original unbroken package. This subsection shall not apply to a person who removes a bottle of wine which has been partially consumed in conjunction with a purchased meal from the licensed premises if the cork is reinserted flush with the top of the bottle.
- 6. An establishment shall, after notice by the superintendent, close its doors, not allow the consumption or possession of beer or wine at the business establishment, and require all patrons to leave the business establishment during the time that it appears to the superintendent that violence may occur.
 - 7. If any clause, sentence, subsection, Section, or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, subsection, Section, or part thereof directly involved in the controversy in which such judgment shall have been rendered.
- R19-1-303. Hearing Procedures**
- A. Any business premises which allows patrons to consume or possess spirituous liquor without complying with A.R.S. §§ 4-244.05 and R19-1-302 violates A.R.S. § 4-244.05. After notice and opportunity for hearing the superintendent may impose any penalty authorized by law.
 - B. This rule governs the procedures in all hearings pursuant to A.R.S. § 4-244.05(C). In this rule, unless the context otherwise requires:
 - 1. "Board" means the State Liquor Board.
 - 2. "Department" means the Department of Liquor Licenses and Control.
 - 3. "Hearing" means a proceeding in which the legal rights, duties, or privileges of a party are required by law to be determined.
 - 4. "Hearing officer" means a person appointed by the director to conduct a hearing and make findings of fact and conclusions of law.
 - 5. "Party" means the department and each person named in a notice of hearing issued by the department.
 - 6. "Superintendent" means the Superintendent of the Department.
 - C. Notice of Hearing
 - 1. The notice of hearing shall be given to all parties at least 20 days prior to the date set for hearing.
 - 2. Service of the notice is complete by personal service or by registered mail addressed to the person and deposited in the United States mail or by registered mail addressed to the person's attorney of record and deposited in the United States mail.
 - 3. The notice shall state the time and place of the hearing and a short and plain statement of the matters asserted.
 - D. Answer
 - 1. A party issued a notice of hearing shall file an answer within 10 days after service with the department.
 - 2. A party who fails to file an answer is deemed to have admitted committing the conduct alleged in the notice of hearing. Upon such deemed admission, the director may impose a penalty authorized by A.R.S. § 4-244.05(C).
 - E. Hearing
 - 1. A hearing may be conducted in an informal manner and the rules of evidence applicable to judicial proceedings shall not apply.
 - 2. A party may be represented by counsel, may submit evidence and cross examine witnesses.

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- 3. A party may submit a request to the hearing officer for the issuance of a subpoena to compel the attendance of a witness at a hearing. The requesting party will provide and serve the subpoena.
- 4. Upon application of a party, the hearing officer may order a deposition be taken of a witness who cannot be subpoenaed or is unavailable to attend the hearing.
- E. The hearing officer shall submit a report of his findings of fact and conclusions of law to the Superintendent within 20 days of the hearing. The Superintendent may adopt, modify, supplement, amend, or reject the hearing officer's report in whole or in part.
- G. The Superintendent shall issue his decision and order within 10 days after receiving the hearing officer's report.
- H. A party may appeal the Superintendent's decision and order to the board. The party shall file the appeal in writing with the department within 15 days after service of the Superintendent decision and order.
- I. A party shall base the appeal to the board on the record and on a contention that the Superintendent's decision and order was:
 - 1. Founded on or contained errors of law,
 - 2. Unsupported by any competent evidence,
 - 3. Materially affected by unlawful procedures,
 - 4. Based on a violation of a constitutional provision,
 - 5. Arbitrary or capricious.
- J. Until the board determines the appeal, enforcement of the Superintendent's decision and order is suspended. The board may affirm, reverse or modify the Superintendent's decision and order. The board's order shall be the review of the decision of the agency and any aggrieved party may seek judicial review.

R19-1-304. Public Facilities Exemption

Publicly owned and/or facilities operated by governmental entities ("Public Facility") are exempt from A.R.S. § 4-244.05 if such facilities meet all of the following conditions:

- 1. The possession or consumption of spirituous liquor is permitted only within the hours of 12 p.m. to 10 p.m. as permitted by Arizona law, and is limited to no more than 10 hours per day;
- 2. The possession or consumption of spirituous liquor is permitted only as an incidental convenience to the person attending such public facility;
- 3. The maximum permitted occupancy of such public facility shall be 250,000.
- 4. A person attending such public facility shall possess no more than 24 ounces of beer, 6 ounces of distilled spirits or 6 ounces of wine per person to be consumed on the premises.
- 5. The superintendent's agent and/or any peace officer shall be empowered to enforce Title 4, A.R.S. to visit and inspect the public facility during business hours.
- 6. The public facility and/or its proprietor, manager, controller, controlling person or employee shall not:
 - a. Buy spirituous liquor for resale, sell spirituous liquor, deal in spirituous liquor, or possess spirituous liquor at the public facility.
 - b. Allow a person under the legal drinking age to receive, have in possession, or consume spirituous liquor at the public facility.
 - c. Allow employees to handle spirituous liquor at the public facility, except an employee over 19 years of age may clean up spirituous liquor packages consumed by persons.
 - d. Consume spirituous liquor while on or about the premises, or appear in an intoxicated or disorderly condition.

- e. Allow an intoxicated person to possess or consume spirituous liquor at the public facility, or allow or permit an intoxicated or disorderly person to come into or remain on or about the premises, except that an intoxicated person is not prohibited from remaining on the premises for a period of time not to exceed 30 minutes after the state of intoxication is known, or should have been known, in order that the intoxicated person may be transported from the premises by a non-intoxicated person.
- f. Allow persons to possess or consume beer or wine at the public facility on election day during the hours polling places are open for voting.
- g. Allow drinking contests or other games involving the consumption of spirituous liquor.
- h. Permit, whether completed or preparatory, the unlawful possession, use, sale, or offer for sale, transfer, or offer to transfer of narcotics, dangerous drugs, or marijuana on the premises.
- i. Permit, whether completed or preparatory, prostitution or the solicitation of prostitution on the premises.
- j. Permit, whether completed or preparatory, unlawful gambling on the premises.
- k. Permit, whether completed or preparatory, trafficking in stolen property on the premises.
- l. Permit any person other than a peace officer, the owner, or an employee acting with permission of the owner, to be in possession of a firearm while on the premises. This subsection shall not be construed to include a situation in which a person is on the premises for a limited time in order to seek emergency aid and such a person does not consume or possess spirituous liquor. This subsection shall not apply to the exhibition or display of a firearm in conjunction with a meeting, show, class, or similar event.
- m. Permit any person other than a peace officer, the owner, or an employee acting with permission of the owner to possess a firearm while on the premises. This subsection shall not apply to the exhibition or display of a firearm in conjunction with a meeting, show, class or similar event. It shall be a defense to action under this subsection if the owner or employee requested assistance of a peace officer to remove such person.
- n. Lock, or permit to be locked the front entrance to the public facility until all persons and off-duty employees have left the premises. One person may remain inside the public facility to escort on-duty employees.
- o. Permit any person to appear at the public facility, while the person is unclothed or in such attire, costume, or clothing as to expose to view any portion of the areola of the female breast, or any portion of his or her pubic hair, anus, cleft of the buttocks, vulva, or genitals.
- p. Encourage or permit any person on the premises to touch, caress, or fondle the breasts, buttocks, anus, or genitals of any other person.
- q. Permit any person to wear or use any device or covering exposed to view which simulates the breast, genitals, anus, pubic hair, or any portion thereof.
- r. Permit or allow on the premises any person to perform acts of or acts which constitute or simulate:
 - i. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sex-

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- ual acts which are prohibited by law; or
 - ii. The touching, caressing or fondling of the breast, buttocks, anus, or genitals; or
 - iii. The displaying of any portion of the areola of the female breast, or any portion of his or her pubic hair, anus, vulva, or genitals.
- s. Permit on the premises the showing of film, slide pictures, or any other electronic reproductions depicting:
 - i. Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law; or
 - ii. Any person being touched, caressed or fondled on the breast, buttocks, anus, or genitals; or
 - iii. Scenes wherein a person displays any portion of the areola of the female breast, or any portion of his or her pubic hair, anus, vulva, or genitals; or
 - iv. Scenes wherein artificial devices or inanimate objects are employed to depict any of the pro-

hibited activities described above.

- t. Permit the removal of beer or other wine from the public facility in other than the original unbroken package. This subsection shall not apply to a person who removes a bottle of wine which has been partially consumed in conjunction with a purchased meal from the licensed premises if the cork is reinserted flush with the top of the bottle.
- 7. A public facility shall, after notice by the superintendent, close its doors, not allow the consumption or possession of beer or wine at the public facility, and require all persons to leave the public facility during the time that it appears to the superintendent that violence may occur.
- 8. If any clause, sentence, subsection, Section, or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, subsection, Section or part thereof directly involved in the controversy in which such judgment shall have been rendered.